THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.26975 of 2007

DATED:18.12.2007

BETWEEN:

Sk.Kareemulla and others.

..Petitioners.

And

The Sub-Collector, Gudur, Nellore District and another.

..Respondents.

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.26975 of 2007

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Revenue.

The petitioners claim to be in possession of small extents of land situated at Old Bus Stand, Gudur Town in Nellore District. It is stated that after the said land was allotted by the Municipality, they have constructed shops and doing petty business by obtaining electricity connections etc. But, however, the 2nd respondent-Tahsildar, Gudur Mandal, passed orders, dated 07.05.2007, under Section 6 of the Land Encroachment Act, 1905 (for short "the Act"), for eviction of the petitioners from their respective shops. Earlier, the petitioners approached this Court by filing W.P.No.10421 of 2007, questioning the jurisdiction of the 2nd respondent for invoking the provisions of the Act ordering their eviction. But, however, this Court, in view of an effective alternative remedy, by way of appeal, through its order, dated 21.08.2007, rejected the said writ petition giving liberty to the petitioners to prefer an appeal. Subsequently, the petitioners preferred an appeal on 05.12.2007 before the 1st respondent, along with an application for interim orders. But, no orders have been passed as yet.

It is the grievance of the petitioners that on the one hand the Appellate Authority has not passed any orders on the interlocutory application and on the other hand, the 2nd respondent is taking steps to evict them.

Whether the subject land was allotted by the Municipality, and whether the order passed by the 2nd respondent is valid under the provisions of the Act, are the questions, which are required to be dealt with by the Appellate Authority i.e., the 1st respondent herein, in the appeal filed by the petitioners.

Inasmuch as it is submitted that the allotments were made way back in March, 1999, and the petitioners have shown the material in proof of payment of rents to the Municipality, and also in view of the

fact that the appeal filed by the petitioners is pending consideration before the

1st respondent-Appellate Authority, I deem it appropriate to dispose of the writ petition, directing the 1st respondent to decide the appeal preferred by the petitioners on 05.12.2007 against the orders of eviction, as expeditiously as possible. Further, it is directed that the respondents shall not take any steps for eviction of the petitioners, till the appeal filed by them is disposed of.

Subject to the above directions, the Writ Petition is disposed of at the stage of admission. There shall be no order as to costs.

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R.SUBHASH REDDY, J

Dt.18.12.2007

GJ